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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,634	02/07/2005	Giorgio Offredi	KAR 006	4291
39232 7590 02/20/2008 Themis Intellectual Property Counsel 7660 Fay Ave Ste H378 La Jolla, CA 92037				
EXAMINER				
SUERETH, SARAH ELIZABETH				
ART UNIT		PAPER NUMBER		
3749				
MAIL DATE		DELIVERY MODE		
02/20/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/509,634

**Applicant(s)**

OFFREDI, GIORGIO

**Examiner**

Sarah Suereth

**Art Unit**

3749

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 and 12-55 is/are pending in the application.
- 4a) Of the above claim(s) 4, 5, 9-11, 22-34, 38-43, 55 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-3, 6-8, 12-21, 35-37 and 44-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 9-11,56-86 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12/13/07.
2. Additionally, the Examiner withdraws claims 4,5,22-34,38-43,55 as drawn to a nonelected embodiment. These claims are not supported by Figures 5-12, and read on various other embodiments exclusively.
3. Claims 1-3,6-8,12-21,35-37,44-54 stand and are examined below.

### ***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the oven of claim 2 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3,7,8,12,44-51,54 are rejected under 35 U.S.C. 102(b) as being anticipated by Riehl (4418456).

7. Riehl discloses: a burner comprising a first half shell (41) with perforations (51); a second half shell (42), joined together along the edges (43,44) communicating with a venturi tube (49), one end of the burner being a truncated head (46 is the truncated side).

Regarding claim 2, the burner is designed to be installed in an oven via brackets (66), and thus is capable of being installed horizontally.

Regarding claim 8, the end (65) includes a mounting hole (66).

Regarding claim 44-45, the element 43 is a separate closing member that forms the flame arc forming head (Figure 8).

Regarding claim 47, the venturi tube (49) is regarded as having the same structure as applicant has claimed, although not made by the claimed process.

Regarding claim 49, Figure 8 clearly shows the bottom half shell extending beyond the edge of the upper half shell (shown by dotted lines in Figure 8).

8. Claims 1,44-53 are rejected under 35 U.S.C. 102(b) as being anticipated by Schlosser (6244263).

9. Schlosser discloses: a burner comprising a first half shell (42) with perforations (80,50,106); a second half shell (28), joined together along the edges (see Figure 5) to form a tubular section (Figure 5, element 50) communicating with a venturi tube (Figure 4, element 44), one end of the burner being a truncated head (top of element 38 is the truncated side).

Regarding claim 44-45, the element 38 is a separate closing member that forms the flame arc forming head (Figure 4).

Regarding claim 47, the venturi tube is regarded as having the same structure as applicant has claimed, although not made by the claimed process.

Regarding claim 49, Figure 4 clearly shows that the truncated end (112) of the first half shell (42) extends above the end of the second half shell (60).

Regarding claims 51-53, Schlosser shows locking means including bushings (84) on that engage bosses (82) on the half shell truncated end (60).

10. Claims 1-3,6-8,12-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Haen et al (5406703).

11. Haen discloses: a burner comprising a first half shell (13) with perforations (19); a second half shell (11), joined together along the edges (15,17) communicating with a venturi tube (65), one end of the burner being a truncated head (73 is the truncated side).

Regarding claim 2, the burner is designed to be installed in an oven, and is capable of being installed horizontally.

Regarding claim 6, the outer surfaces are substantially flat (Figure 2).

Regarding claim 8, the end (73) extends beyond the base (see Figure 5).

Regarding claims 12-21, elements 17 and 15 are formed by the joining of grooves on the opposite faces of the burner (Figure 2), and are capable of allowing air to pass through them. These are also regarded as the claimed "mutual contact" portions, as grooves on the top and bottom surfaces are joined together along these edges.

12. Claims 1-3,6-8,12,35-37, are rejected under 35 U.S.C. 102(b) as being anticipated by Reynolds (4416249).

13. Reynolds discloses: a burner comprising first and second half shells joined together (Figure 5, element B) with perforations (64); communicating with a venturi tube (portion of the tube surrounding shutter 77), one end of the burner being a truncated head (62 is the truncated side).

Regarding claim 2, the burner is designed to be installed in an oven via bracket (62), and is capable of being installed horizontally.

Regarding claim 6, the outer surfaces are substantially flat (Figure 5).

Regarding claim 8, the end (62) extends beyond the base (see Figure 5).

Regarding claim 35, there is a parabolic reflector (R) attached to the burner (B) via bolts (66) joined through holes (75).

Regarding claim 36, element 65 is regarded as the claimed locking member.

Regarding claim 37, element 65 is regarded as the claimed median strip, as it is the central portion extending longitudinally along the reflector (see Figure 5).

### ***Conclusion***

14. The prior art made of record on the attached form PTO-892 and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah Suereth whose telephone number is (571) 272-

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9061. The examiner can normally be reached on Tuesdays & Thursdays 8:00AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve McAllister can be reached on (571) 272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Sarah Suereth/

Examiner, Art Unit 3749

/Steven B. McAllister/

Supervisory Patent Examiner, Art Unit 3749